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AN ACT

RELATING TO ELECTIONS; AMENDING AND ENACTING SECTIONS OF THE
CAMPAIGN REPORTING ACT BY ADDING DISCLAIMER REQUIREMENTS FOR
ADVERTISEMENTS CONTAINING MATERIALLY DECEPTIVE MEDIA; CREATING
THE CRIME OF DISTRIBUTING OR ENTERING INTO AN AGREEMENT WITH
ANOTHER PERSON TO DISTRIBUTE MATERIALLY DECEPTIVE MEDIA;
ADDING DEFINITIONS; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 1-19-26 NMSA 1978 (being Laws 1979,
Chapter 360, Section 2, as amended) is amended to read:

"1-19-26. DEFINITIONS.--As used in the Campaign
Reporting Act:

A. "advertisement" means a communication referring
to a candidate or ballot question that is published,
disseminated, distributed or displayed to the public by print,
broadcast, satellite, cable or electronic media, including
recorded phone messages, or by printed materials, including
mailers, handbills, signs and billboards, but "advertisement"
does not include:

(1) a communication by a membership
organization or corporation to its current members,
stockholders or executive or administrative personnel;

(2) a communication appearing in a news
story or editorial distributed through a print, broadcast,

1 satellite, cable or electronic medium;

2 (3) a candidate debate or forum or a
3 communication announcing a candidate debate or forum paid for
4 on behalf of the debate or forum sponsor; provided that two
5 or more candidates for the same position have been invited to
6 participate or, in the case of an uncontested election, that
7 the single candidate for the position has been invited to
8 participate;

9 (4) nonpartisan voter guides allowed by the
10 federal Internal Revenue Code of 1986, as amended, for
11 Section 501(c)(3) organizations; or

12 (5) statements made to a court or
13 administrative board in the course of a formal judicial or
14 administrative proceeding;

15 B. "anonymous contribution" means a contribution
16 the contributor of which is unknown to the candidate or the
17 candidate's agent or the political committee or its agent who
18 accepts the contribution;

19 C. "artificial intelligence" means a machine-based
20 or computer-based system that through hardware or software
21 uses input data to emulate the structure and characteristics
22 of input data in order to generate synthetic content,
23 including images, video or audio;

24 D. "ballot question" means a constitutional
25 amendment or other question submitted to the voters in an

1 election;

2 E. "bank account" means an account in a financial
3 institution regulated by the United States or a state of the
4 United States;

5 F. "campaign committee" means an association of
6 two or more persons authorized by a candidate to act on the
7 candidate's behalf for the purpose of electing the candidate
8 to office; provided that a candidate shall not authorize more
9 than one campaign committee;

10 G. "campaign expenditure" means an expenditure
11 that is made by a campaign committee or by a candidate in
12 support of the candidate's campaign in an election;

13 H. "candidate" means an individual who seeks or
14 considers an office in an election covered by the Campaign
15 Reporting Act, including a public official, who has filed a
16 declaration of candidacy and has not subsequently filed a
17 statement of withdrawal or:

18 (1) for a nonstatewide office, has received
19 contributions or made expenditures of more than one thousand
20 dollars (\$1,000) or authorized another person or campaign
21 committee to receive contributions or make expenditures of
22 more than one thousand dollars (\$1,000) for the purpose of
23 seeking election to the office; or

24 (2) for a statewide office, has received
25 contributions or made expenditures of more than three

1 thousand dollars (\$3,000) or authorized another person or
2 campaign committee to receive contributions or make
3 expenditures of more than three thousand dollars (\$3,000) for
4 the purpose of seeking election to the office or for
5 candidacy exploration purposes in the years prior to the year
6 of the election;

7 I. "contribution":

8 (1) means a gift, subscription, loan,
9 advance or deposit of money or other thing of value,
10 including the estimated value of an in-kind contribution,
11 that is made or received for a political purpose, including
12 payment of a debt incurred in an election campaign;

13 (2) includes a coordinated expenditure;

14 (3) does not include the value of services
15 provided without compensation or unreimbursed travel or other
16 personal expenses of individuals who volunteer a portion or
17 all of their time on behalf of a candidate or political
18 committee nor does it include the administrative or
19 solicitation expenses of a political committee that are paid
20 by an organization that sponsors the committee; and

21 (4) does not include the value of the
22 incidental use of the candidate's personal property, home or
23 business office for campaign purposes;

24 J. "coordinated expenditure" means an expenditure
25 that is made:

1 (1) by a person other than a candidate or
2 campaign committee;

3 (2) at the request or suggestion of, or in
4 cooperation, consultation or concert with, a candidate,
5 campaign committee or political party or any agent or
6 representative of a candidate, campaign committee or
7 political party; and

8 (3) for the purpose of:

9 (a) supporting or opposing the
10 nomination or election of a candidate; or

11 (b) paying for an advertisement that
12 refers to a clearly identified candidate and is published and
13 disseminated to the relevant electorate in New Mexico within
14 thirty days before the primary election or sixty days before
15 the general election in which the candidate is on the ballot;

16 K. "deliver" or "delivery" means to deliver by
17 certified or registered mail, telecopier, electronic
18 transmission or facsimile or by personal service;

19 L. "depicted individual" means an individual whose
20 image, photo, likeness or voice is represented in an
21 advertisement or other media in such a manner that results in
22 the individual being identifiable;

23 M. "distribution platform" means a website,
24 internet forum or message board, application or a published
25 newspaper, magazine or other periodical of general

1 circulation, including an internet or electronic publication,
2 that carries news and commentary;

3 N. "election" means any primary, general or
4 statewide special election in New Mexico and includes county
5 and judicial retention elections but excludes federal,
6 municipal, school board and special district elections;

7 O. "election year" means an even-numbered year in
8 which an election covered by the Campaign Reporting Act is
9 held;

10 P. "expenditure" means a payment, transfer or
11 distribution or obligation or promise to pay, transfer or
12 distribute any money or other thing of value for a political
13 purpose, including payment of a debt incurred in an election
14 campaign or pre-primary convention;

15 Q. "independent expenditure" means an expenditure
16 that is:

17 (1) made by a person other than a candidate
18 or campaign committee;

19 (2) not a coordinated expenditure as defined
20 in the Campaign Reporting Act; and

21 (3) made to pay for an advertisement that:

22 (a) expressly advocates the election or
23 defeat of a clearly identified candidate or the passage or
24 defeat of a clearly identified ballot question;

25 (b) is susceptible to no other

1 reasonable interpretation than as an appeal to vote for or
2 against a clearly identified candidate or ballot question; or

3 (c) refers to a clearly identified
4 candidate or ballot question and is published and
5 disseminated to the relevant electorate in New Mexico within
6 thirty days before the primary election or sixty days before
7 the general election at which the candidate or ballot
8 question is on the ballot;

9 R. "legislative caucus committee" means a
10 political committee established by the members of a political
11 party in a chamber of the legislature;

12 S. "materially deceptive media" means an image,
13 video or audio that:

14 (1) depicts an individual engaged in conduct
15 or speech in which the depicted individual did not engage;

16 (2) was published, disseminated, distributed
17 or displayed to the public without the consent of the
18 depicted individual; and

19 (3) was produced in whole or in part by
20 using artificial intelligence;

21 T. "person" means an individual or entity;

22 U. "political committee" means:

23 (1) a political party;

24 (2) a legislative caucus committee;

25 (3) an association that consists of two or

1 more persons whose primary purpose is to make contributions
2 to candidates, campaign committees or political committees or
3 make coordinated expenditures or any combination thereof; or

4 (4) an association that consists of two or
5 more persons whose primary purpose is to make independent
6 expenditures and that has received more than five thousand
7 dollars (\$5,000) in contributions or made independent
8 expenditures of more than five thousand dollars (\$5,000) in
9 the election cycle;

10 V. "political party" means an association that has
11 qualified as a political party pursuant to the provisions of
12 Section 1-7-2 NMSA 1978;

13 W. "political purpose" means for the purpose of
14 supporting or opposing a ballot question or the nomination or
15 election of a candidate;

16 X. "prescribed form" means a form or electronic
17 format prepared and prescribed by the secretary of state;

18 Y. "public official" means a person elected to an
19 office in an election covered by the Campaign Reporting Act
20 or a person appointed to an office that is subject to an
21 election covered by that act; and

22 Z. "reporting individual" means a public official,
23 candidate or treasurer of a campaign committee or a treasurer
24 of a political committee."

25 SECTION 2. Section 1-19-26.4 NMSA 1978 (being Laws

1 2019, Chapter 262, Section 2) is amended to read:

2 "1-19-26.4. DISCLAIMERS IN ADVERTISEMENTS--ARTIFICIAL
3 INTELLIGENCE--MATERIALLY DECEPTIVE MEDIA--VIOLATION--
4 PENALTY.--

5 A. A person who makes a campaign expenditure, a
6 coordinated expenditure or an independent expenditure for an
7 advertisement in an amount that exceeds one thousand dollars
8 (\$1,000), or in an amount that, when added to the aggregate
9 amount of the campaign expenditures, coordinated expenditures
10 and independent expenditures for advertisements made by the
11 same person during the election cycle, exceeds one thousand
12 dollars (\$1,000), shall ensure that the advertisement
13 contains the name of the candidate, committee or other person
14 who authorized and paid for the advertisement.

15 B. The requirements of Subsection A of this
16 section do not apply to the following:

17 (1) bumper stickers, pins, buttons, pens and
18 similar small items upon which the disclaimer cannot be
19 conveniently printed; or

20 (2) skywriting, water towers, wearing
21 apparel or other means of displaying an advertisement of such
22 a nature that the inclusion of a disclaimer would be
23 impracticable.

24 C. The disclaimer statements required by
25 Subsection A of this section shall be set forth legibly on

1 any advertisement that is disseminated or displayed by visual
2 media. If the advertisement is transmitted by audio media,
3 the statement shall be clearly spoken during the
4 advertisement. If the advertisement is transmitted by
5 audiovisual media, the statement shall be both written
6 legibly and spoken clearly during the advertisement.

7 D. If a person creates, produces or purchases an
8 advertisement that contains materially deceptive media, the
9 advertisement shall include a disclaimer. The disclaimer
10 shall appear in a clear and conspicuous manner in every
11 language used in the advertisement and shall indicate: "This
12 _____ has been manipulated or generated by artificial
13 intelligence". The blank line in the disclaimer shall be
14 filled with each of the following terms that describes the
15 media:

- 16 (1) image;
- 17 (2) video; or
- 18 (3) audio.

19 E. The disclaimer required in Subsection D of this
20 section shall be included as follows:

21 (1) for visual media that is an image, the
22 text of the disclaimer shall appear in a size that is easily
23 readable;

24 (2) for visual media that is video, the
25 disclaimer shall appear for the duration of the video in a

1 size that is easily readable;

2 (3) for media that contains audio only, the
3 disclaimer shall be read in a clearly spoken manner and in a
4 pitch that can be easily heard at the beginning of the audio,
5 at the end of the audio and, if the audio is greater than two
6 minutes in length, interspersed within the audio at intervals
7 of not greater than two minutes each; and

8 (4) for mixed media, there shall be a
9 disclaimer in the same form as provided in this section for
10 each form of media used.

11 F. Each occurrence of a person creating, producing
12 or purchasing an advertisement subject to the disclaimer
13 requirements as provided in Subsection D of this section that
14 fails to meet the disclaimer requirements constitutes a
15 separate violation. A person found to have violated the
16 requirements provided in Subsection D of this section shall
17 be subject to civil penalties as provided in Section
18 1-19-34.6 NMSA 1978.

19 G. It is not a violation of this section for:

20 (1) a radio or television broadcasting
21 station, including a cable television, satellite television
22 or streaming service operator, programmer or producer, that
23 broadcasts an advertisement as part of a bona fide newscast,
24 news interview, news documentary or on-the-spot coverage of a
25 bona fide news event if the broadcast clearly acknowledges

1 through content or a disclaimer, in a manner that can be
2 easily read or heard, that the advertisement was generated in
3 whole or in part by using artificial intelligence and does
4 not accurately represent the speech or conduct of the
5 depicted individual;

6 (2) a radio or television broadcasting
7 station, including a cable television, satellite television
8 or streaming service operator, programmer or producer, that
9 broadcasts an advertisement when the station or streaming
10 service is paid to broadcast the advertisement if the station
11 or streaming service can show that it has disclaimer
12 requirements that are consistent with the requirements
13 provided in Subsection D of this section and that it provided
14 those disclaimer requirements to each person or entity that
15 purchased the broadcast or streaming of the advertisement;

16 (3) an advertisement that reasonably
17 constitutes satire or parody if the advertisement includes a
18 disclaimer consistent with the requirements provided in
19 Subsection D of this section; and

20 (4) a distribution platform that published,
21 posted or distributed an advertisement or a prerecorded phone
22 message if the distribution platform can show that it has
23 disclaimer requirements that are consistent with the
24 requirements provided in Subsection D of this section and
25 that it provided those disclaimer requirements to the person

1 or entity that purchased the distribution of the
2 advertisement or prerecorded phone message by or on the
3 distribution platform.

4 H. Nothing in this section shall be construed to
5 preclude a claim pursuant to any other section of law or any
6 civil action for damages."

7 SECTION 3. A new section of the Campaign Reporting Act,
8 Section 1-19-26.8 NMSA 1978, is enacted to read:

9 "1-19-26.8. PROHIBITED USE OF MATERIALLY DECEPTIVE
10 MEDIA--DISCLAIMERS REQUIRED--CRIME FOR VIOLATION--
11 EXCEPTIONS--ENFORCEMENT.--

12 A. Except as otherwise provided in Subsections B
13 through D of this section, it is a violation of the Campaign
14 Reporting Act for a person to distribute or enter into an
15 agreement with another person to distribute materially
16 deceptive media. A person violates this subsection if that
17 person distributes or enters into an agreement with another
18 person to distribute materially deceptive media and:

19 (1) the person knows the materially
20 deceptive media falsely represents a depicted individual;

21 (2) the distribution occurs within ninety
22 days before an election; and

23 (3) the person intends the distribution to
24 result in altering the voting behavior of electors in an
25 election by misleading the electors into believing that the

1 depicted individual engaged in the speech or conduct
2 depicted, and the distribution is reasonably likely to cause
3 that result.

4 B. The prohibition provided in Subsection A of
5 this section does not apply to materially deceptive media if
6 that media includes a disclaimer that appears in a clear and
7 conspicuous manner in every language used in the media and
8 indicates: "This ____ has been manipulated or generated by
9 artificial intelligence". The blank line in the disclaimer
10 shall be filled in with each of the following terms that
11 describes the media:

- 12 (1) image;
- 13 (2) video; or
- 14 (3) audio.

15 C. The disclaimer required in Subsection B of this
16 section shall be included as follows:

17 (1) for visual media that is an image, the
18 text of the disclaimer shall appear in a size that is easily
19 readable;

20 (2) for visual media that is video, the
21 disclaimer shall appear for the duration of the video;

22 (3) for media that contains audio only, the
23 disclaimer shall be read in a clearly spoken manner and in a
24 pitch that can be easily heard at the beginning of the audio,
25 at the end of the audio, and if the audio is greater than two

1 minutes in length, interspersed within the audio at intervals
2 of not greater than two minutes each; and

3 (4) for mixed media, there shall be a
4 disclaimer in the same form as provided in this section for
5 each form of media used.

6 D. A person found to have willfully and knowingly
7 violated the prohibition provided in Subsection A of this
8 section is guilty of a crime as follows:

9 (1) for a first conviction, a misdemeanor;
10 and

11 (2) for a second conviction, a fourth degree
12 felony.

13 E. Enforcement of the provisions of this section,
14 including injunctive relief, against a person who violates
15 this section may be sought in any court of competent
16 jurisdiction by any of the following:

17 (1) the attorney general;

18 (2) a district attorney;

19 (3) a depicted individual who is falsely
20 represented;

21 (4) a candidate for office who has been
22 injured or is likely to be injured by the distribution of
23 materially deceptive media; or

24 (5) any organization that represents the
25 interests of voters who are likely to be misled by the

